

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Resolution ALJ 176-3053  
Administrative Law Judge Division  
December 21, 2000

**R E S O L U T I O N**

RESOLUTION ALJ 176-3053. Ratification of preliminary determinations of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4, and 6.1 of the Commission's Rules of Practice and Procedure. (See also Rule 63.2(c) regarding notice of assignment.)

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The Commission's rules and procedures which implement the requirements of Senate Bill (SB) 960 (Leonard, ch. 96-0856) are, for the most part, found in Article 2.5 of our Rules of Practice and Procedure. The rules and procedures were adopted by the Commission in D.97-11-021, which describes more fully the background to the development of these rules. Rule 4 describes the formal proceedings to which the SB 960 rules (Article 2.5) apply. Rule 6.1 requires the Commission to preliminarily determine a proceeding's category, whether the proceeding requires a hearing, and designate an Assigned Commissioner and Administrative Law Judge. Rule 6.1(a) states that the preliminary determination of category is not appealable but shall be confirmed or changed by Assigned Commissioner's ruling. Unless and until a preliminary determination is changed by such ruling, the preliminary determination of category governs the applicability of the other reforms that SB 960 requires. Rule 63.2 provides for petitioning the Commission to reassign a proceeding to another administrative law judge. Rule 63.2(c) establishes the time for filing such a petition. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

**The Categories**

SB 960 makes sweeping changes in many aspects of the Commission's practices in an effort to improve the quality and timeliness of Commission decision making. It creates three categories of proceedings: adjudicatory, ratesetting, and quasi-legislative. The applicability of many of the changes it requires depends upon the category assigned to

the proceeding. For example, the ex parte rules which apply differ if the proceeding is categorized as adjudicatory rather than quasi-legislative. The Legislature defined each of these procedural categories in Section 7 of SB 960. Consistent with these definitions, the rules provide that:

“‘Adjudicatory’ proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

“‘Ratesetting’ proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). ‘Ratesetting’ proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. For purposes of this Article, other proceedings may be categorized as ratesetting as described in Rule 6.1(c).

“‘Quasi-legislative’ proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.” (Rules 5(b), 5(c), and 5(d).)

### **Mixed or Unclear Category Proceedings**

For a proceeding that may fall into more than one category, the rules allow parties to recommend that the Commission pick the most suitable category, or to recommend dividing the subject matter of the proceeding into different phases or one or more new proceedings, each with its own category. The rules provide that a proceeding that does not clearly fit into *any* of SB 960’s defined categories will be conducted under the rules applicable to the ratesetting category. As such a proceeding matures, the Commission may determine that the rules applicable to one of the other categories, or some hybrid of those rules, would be better suited to the proceeding.

As stated in D.97-06-071, ratesetting proceedings typically involve a mix of policymaking and factfinding relating to a particular public utility. Because proceedings that do not clearly fall within the adjudicatory or quasi-legislative categories likewise typically involve a mix of policymaking and factfinding, the ratesetting procedures are, in general, preferable for those proceedings.

## **Next Steps**

As stated above, this preliminary determination of category is not appealable. Once interested parties have had an opportunity to respond to the initiating party's proposed category, the preliminary determination shall be confirmed or changed by Assigned Commissioner's Ruling pursuant to Rule 6(a)(3). This Assigned Commissioner Ruling may be appealed to the full Commission pursuant to Rule 6.4(a). Parties have 10 days after the ruling is mailed to appeal. Responses to the appeal are allowed under Rule 6.4(b), and must be filed and served not later than 15 days after the ruling is mailed. The full Commission will consider the appeal.

Any party, or person or entity declaring an intention to become a party is entitled to petition for reassignment of the proceeding to another Administrative Law Judge, as described in Rule 63.2. Such a petition must be filed no later than 10 days after notice of the assignment. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

## **Conclusion**

The Commission has reviewed the initial pleading of the utility applicants listed in the attached schedule and has made a preliminary determination of category and need for hearing, consistent with the requirements and definitions of Article 2.5 of its rules.

**IT IS ORDERED** that each proceeding listed in the attached schedule is preliminarily categorized, and the need for a hearing is noted.

ALJ/epg

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on December 21, 2000, the following Commissioners voting favorably thereon:

/s/ WESLEY M. FRANKLIN

WESLEY M. FRANKLIN  
Executive Director

LORETTA M. LYNCH  
President  
HENRY M. DUQUE  
JOSIAH L. NEEPER  
RICHARD A. BILAS  
CARL W. WOOD  
Commissioners

**PRELIMINARY DETERMINATION  
SCHEDULE**  
Resolution ALJ 176-3053 (12/21/2000)

<b>NUMBER TITLE</b>	<b>PROPOSED CATEGORY</b>	<b>PRELIM. CATEGORY</b>	<b>HEARING</b>
<b>A00-11-066</b> MIDWESTERN TELECOMMUNICATIONS, INC., for a Certificate of Public Convenience and Necessity to Offer Local Exchange Access and Interexchange Services	Ratesetting	Ratesetting	NO
<b>A00-11-068</b> PARAMOUNT INTERNATIONAL COMMUNICATIONS, INC., for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013 and D.97-06-107	NDIEC Registration Application	Ratesetting	NO
<b>A00-12-002</b> THAI TOWN USA CORPORATION, dba BKT CALLING CARD, for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013 and D.97-06-107	NDIEC Registration Application	Ratesetting	NO
<b>A00-12-004</b> CALNEV PIPE LINE COMPANY, KINDER MORGAN ENERGY PARTNERS, L.P., for Approval of Change of Control	Ratesetting	Ratesetting	NO
<b>A00-12-005</b> LIGHTWAVE COMMUNICATIONS, LLC, for a Certificate of Public Convenience and Necessity to Provide Competitive Local Exchange Services and Interexchange Services on a Combined Resale and Facilities Basis in the State of California	Ratesetting	Ratesetting	NO
<b>A00-12-006</b> METROMEDIA FIBER NETWORK SERVICES, INC., for its Third Modification of its Certificate of Public Convenience and Necessity to Provide Facilities-Based and Resold Local Exchange and Exchange Access Services in the State of California	Ratesetting	Ratesetting	NO
<b>A00-12-008</b> SAN PABLO BAY PIPELINE COMPANY, to Own and Operate the Richmond-to-Pittsburg Fuel Oil Pipeline and Hercules Pump Station as a Common Carrier Pipeline Corporation Pursuant to the Provisions of Public Utilities Code Sections 216 and 228	Ratesetting	Ratesetting	NO
<b>A00-12-010</b> COUNTY OF SAN JOAQUIN, for an order authorizing construction of a crossing at separated grades between Jack Tone Road and the tracks of The Burlington Northern & Santa Fe Railway, sometimes referred to as the "Jack Tone Road Overhead" (PUC No. 2-1112.2A), and for the closure of two nearby grade crossings.	Ratesetting	Ratesetting	NO

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<b>NUMBER TITLE</b>	<b>PROPOSED CATEGORY</b>	<b>PRELIM. CATEGORY</b>	<b>HEARING</b>
<b>A00-12-011</b> DONNER LAKE WATER COMPANY, to Issue Evidence of Indebtedness (Promissory Notes and Loan Agreements) in the Approximate amount of \$12,000,000 and to Grant Security Interest in its Assets for Capital Expenditures within its Donner Lake Service Area	Ratesetting	Ratesetting	YES
<b>A00-12-012</b> VERIZON SELECT SERVICES INC., to Transfer California Customer Base and Withdraw the Provision of Local Bundled Service	Ratesetting	Ratesetting	NO
<b>A00-12-013</b> ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY, for an Order Authorizing the Construction or Alteration of Three Railroad Grade Separations and Thirty Five Highway Grade Separations, all located between the Route 91 on ramp (CPUC Crossing Number 114-10.61-A) in the South and 25th Street (CPUC Crossing Number 114-0.70-A) in the North within the cities of Compton, Lynwood, South Gate, Huntington Park, Vernon, Los Angeles, and/or Unincorporated Portions of the County of Los Angeles, in the State of California	Ratesetting	Ratesetting	NO
<b>A00-12-014</b> GLEN ELLEN WATER CO., LLC, SONOMA SPRINGS WATER COMPANY, LLC, Glen Ellen Water Co., LLC (WTD 412) to Sell, and of the Sonoma Springs Water Company, LLC, to Buy, the Water System Located at and around 1651 Warm Springs Road, Glen Ellen, CA., near the community of Kenwood, County of Sonoma	Ratesetting	Ratesetting	NO
<b>A00-12-015</b> CA ASSOC. OF COMPETITIVE TELECOMMUNICATIONS CARRIER, for modification of the rules by which carriers obtain Commission authority pursuant to Section 851-854 of the Public Utilities Code	Quasi-legislative	Quasi-legislative	NO
<b>A00-12-016</b> SCC COMMUNICATIONS CORPORATION, for a Certificate of Public Convenience and Necessity to Offer Facilities Based and Reseller Local Exchange Telecommunications Services within the State of California	Ratesetting	Ratesetting	NO

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<b>NUMBER TITLE</b>	<b>PROPOSED CATEGORY</b>	<b>PRELIM. CATEGORY</b>	<b>HEARING</b>
<b>A00-12-017</b> AT&T WIRELESS SERVICES/CALIFORNIA, INC., PACIFIC GAS AND ELECTRIC COMPANY, for Commission Approval of a Lease for AT&T Wireless Services of California, Inc.'s Use of Certain Pacific Gas and Electric Company Structures for Communication Antennas and Related Equipment	Ratesetting	Ratesetting	NO
<b>A00-12-018</b> HD MARKETING, LLC, for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013 and D.97-06-107	NDIEC Registration Application	Ratesetting	NO
<b>A00-12-019</b> DEL ORO WATER COMPANY, INC., to Refinance Existing Debt of Approximately \$2,400,000; Borrow an Additional Sum of Approximately \$1,000,000 for Capital Expenditures within its Paradise Pines District; and Establish an \$1,000,000 Revolving Line of Credit	Ratesetting	Ratesetting	NO
<b>A00-12-020</b> GLOBAL LINK COMMUNICATIONS, INC., for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013 and D97-06-107	NDIEC Registration Application	Ratesetting	NO
<b>A00-12-021</b> RADIANT TELECOM, INC., for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013 and D.97-06-107	NDIEC Registration Application	Ratesetting	NO
<b>A00-12-022</b> EVANNET COMMUNICATION INC., for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013 and D.97-06-107	NDIEC Registration Application	Ratesetting	NO
<b>A00-12-024</b> NATION RAILROAD PASSENGER CORP (AMTRAK), for authority/order to construct, operate and maintain new at grade crossings of Adeline Street, CPUC Crossing No.901-6.14-C and Chestnut Street, CPUC Crossing No.901-6.2-C, City of Oakland, County of Alameda	Ratesetting	Ratesetting	NO

ALJ/epg

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<b>A00-12-026</b> PACIFIC GAS AND ELECTRIC COMPANY, for Section 851 Approval of Agreements Allowing Access to Electric Distribution Facilities for the Installation and Maintenance of Telecommunications Equipment.	Ratesetting	Ratesetting	NO